

IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER  
AND DR. S. SEETHALAKSHMI, HON'BLE JUDICIAL MEMBER

ITA No. 856 and 857/Jodh/2024  
(Assessment Year 2018-19)

Janak Singh Bhati 44, Adhivakta Colony, Jaisalmer – 345001. PAN NO. AKRPS5464K		ITO, Barmer
Assessee by	Ms. Divya Phophalia, CA	
Revenue by	Dr. Ashwini Hosmani, Addl. CIT-DR	
Date of Hearing	10.11.2025.	
Date of Pronouncement	25.11.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

The Captioned appeals are filed by the assessee against the separate orders passed by the Ld. National Faceless Appeal Centre (NFAC/ CIT (A), even dated 12.11.2014 in respect of Assessment Year: 2018-19 challenging therein the orders of the authorities below passed *ex parte* qua the assessee.

2. Since the issue involved in both these appeals related to violation of natural justice and hence these two appeals were heard together and adjudicated by this



consolidated order for brevity. The facts are discussed from ITA No. 856/Jodh/2024 (Assessment Year 2018-19) as a lead case.

3. At the outset, the Ld. Counsel submitted that the Ld. CIT(A)/NFAC has Rejected the appeal of the assessee by observing that there exists no sufficient or good reason for condoning inordinate delays of more than 309 days in filing appeal. Accordingly, this appeal is dismissed as barred by limitation. Accordingly, I declined to condone the delay of 309 days and dismiss this appeal of the appellant as barred by limitation. The learned AR further submitted that the AO has passed assessment order under section 147/144 read with section 144B without proper appreciation of the facts and granting adequate opportunity to the assessee that the disputed amount of cash Rs. 1.08 crore investment as the shares were purchased through proper banking channels out of the legitimate source of funds and all the entries were reflected in the books of accounts. The AR contended that given adequate opportunity of being heard to the assessee, the disputed amount can be explained before the AO with the corroborative documentary evidence. Accordingly, he requested that the matter may be restored back to the file of the A.O. to pass assessment *de novo* after granting proper opportunity of being heard



to the assessee. The Id. AR requested to condone the delay before CIT(A) and send back to A.O. for one more opportunity.

4. The Ld. Addl CIT (DR) has no objection to the request of the assessee in view of principles of natural justice.

5. Heard rival contentions, perused the material on record, impugned order, written submission and case law cited before us. Admittedly, the Ld. NFAC has rejected the appeal of as inadmissible by declining to condone the delay of 309 days without appreciating the genuine reasons for the said delay in filing appeal before the CIT/NFAC against the assessment order passed u/s 147 r.w.s.144/144B ex parte qua the assessee. The Ld. AR argued that the worthy CIT(A)/NFAC rejected the appeal as inadmissible without granting opportunity of the hearing against the ex parte assessment order passed under section 147/144 of the act and that while rejecting the condonation of delay, the Ld. CIT(A) has not appreciated the facts and genuine reasons of the delay and arbitrary rejected the appeal. It is seen that neither the AO nor the Ld. CIT(A) has addressed the relevant issue on merits of the case that the assessee could explain the source of the disputed investment provided sufficient opportunity granted by the department.



Considering the genuine reason the delay in filing of appeal before CIT(A) dealt by qualify for condonation.

6. In view of the principles of natural justice, the authorities below ought to have disproved the claim of the assessee by way of rebutting its contention of the assessee with support of corroborative documentary evidence on record after granting an adequate opportunity of being heard. The Hon'ble Supreme Court of India in the case of Tin Box Company vs. CIT reported in 249 ITR 216 in which their Lordships of Supreme Court of India observed as under:

*"Assessment - Opportunity of being heard - Setting aside of assessment - Assessment order must be made after the assessee has been given reasonable opportunity of setting out his case - Same not done - Fact that the assessee could have placed evidence before the first appellate authority or before the Tribunal is really of no consequence for it is assessment order that counts — Assessment order set aside and matter remanded to assessing authority for fresh consideration."*

7. In view of the principles of natural justice, we consider it deem fit to restore back the matter to the file of the Ld. AO to pass *de novo* assessment after considering the written submission and evidences filed on record and may be filed before him during the fresh Assessment Proceedings after granting sufficient opportunity of being heard to the assessee with a direction that the AO shall issue a Show Cause Notice and thereafter pass a reasoned order in accordance with law.



8. Accordingly, Assessment order is set aside and matter is remanded back to the file of the assessing officer to pass *de novo* assessment as per law.
10. The issue regarding penalty u/s 271AAC(1) in ITA No. 857 Jodh 2024 is consequential to the quantum addition of the disputed investment in ITA No. 856 Jodh 2024 which we have remanded back to the AO for *de novo* assessment and therefore, we restored back the consequential penalty to the AO to be initiated afresh if so required, subject the addition of the disputed investment in the fresh assessment proceedings.
11. In the result, both the captioned appeals of the assesses are allowed for statistical purposes.

**Order pronounced on ~~25~~ 25/11/2025 in the open court.**

— sd —

(DR. S. SEETHALAKSHMI)  
JUDICIAL MEMBER

Dated : 25/11/2025

— sd / —  
(DR. MITHALAL MEENA)  
ACCOUNTANT MEMBER

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT

- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder  
Assistant Registrar,  
Income Tax Appellate Tribunal,  
Jodhpur Bench,  
Jodhpur.